



## ***CITY OF AUBURN OUTDOOR SEATING / ENCROACHMENT PERMIT GUIDELINES***



The City of Auburn regulates the design and placement of outdoor seating in accordance with the Auburn Municipal Code. The provisions of the Municipal Code establish the authority and process for allowing Outdoor Seating within the City right-of-way determined to be necessary or beneficial to the public interest and which can be conducted in a manner that will not jeopardize public health and safety. In order to carry out the provisions of the City of Auburn Municipal Code, Outdoor Seating Regulations shall be in accordance with the provisions contained herein.

## **SECTION 1 – PURPOSE**

The purpose of the Outdoor Seating Permit Regulations is to promote safe and attractive use of the public areas created with the City of Auburn Streetscape Project. The City also aims to maintain and preserve existing public facilities and properties within the project area. The Outdoor Seating Regulations are intended to assist applicants and business owners in establishing attractive and safe outdoor seating areas that compliment the Streetscape Project and the citizens that enjoy those public spaces.

## **SECTION 2 – PHASE 1 AREA DEFINED**

Phase 1 of the Streetscape Project is generally from Lincoln Way from Joe Elder Station to Linden Avenue as shown below in **Figure 1**.

Designated areas for Outdoor Seating are indicated in the shaded areas immediately adjoining the abutting property in **Figure 1**. Other areas outside of the abutting property may be utilized for community events subject to the approval of the City Manager.

## **SECTION 3 – PROHIBITED LOCATIONS**

Outdoor Seating is prohibited in areas where limited right-of-way exists that would prevent pedestrian circulation.

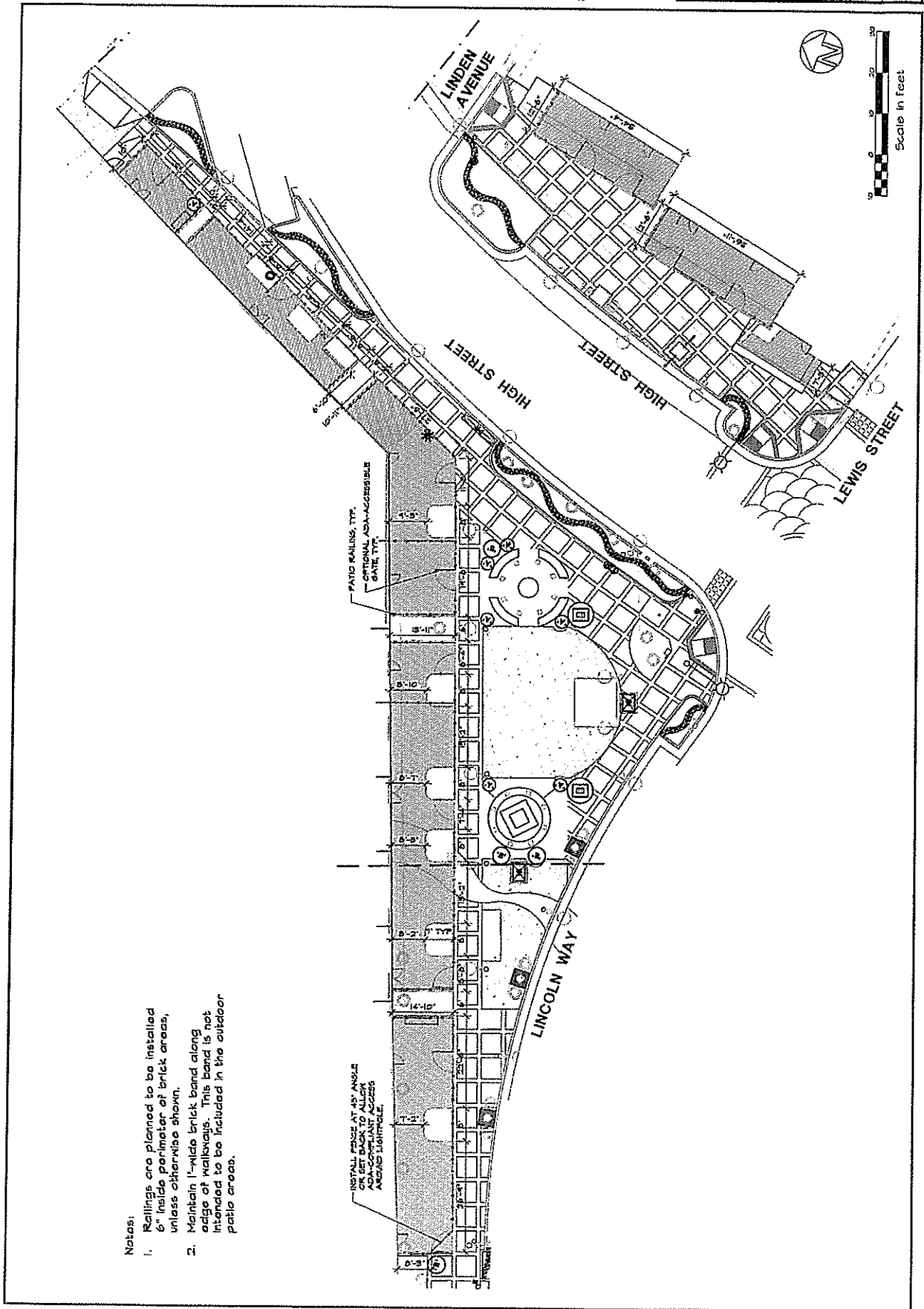


FIGURE 1

## SECTION 4 – GENERAL GUIDELINES

The City's interest in reviewing applications for Outdoor Seating Permits relates to the safety and well being of the public and the promotion of the City of Auburn Historic Business District as a vital and attractive pedestrian district. The City's goal is to maintain the highest standards of accessibility and safety while achieving an attractive and functional design. In general, allowed Outdoor Seating should compliment public use and improvements.

Items permitted to encroach in the City right-of-way shall comply with all requirements of these design guidelines and City Municipal Code. The City will deny any Outdoor Seating Permit if it is determined that it does not comply with these Guidelines or any other standard or regulation set forth by the City.

Outdoor Seating may be allowed where it can be determined by the City that the facilities would not result, individually or cumulatively, in a narrowing of the sidewalk such that important functional attributes of the Downtown (e.g. ability of pedestrians to stroll side-by-side and to pass comfortably for significant stretches, lingering and window shopping) are not jeopardized. The location and dimensions of any item located in a public place shall meet the minimum Guidelines set forth in these design standards and any other local, state or federal law or regulation.

## SECTION 5 – OUTDOOR SEATING / ENCROACHMENT PERMIT

1. No person shall establish or maintain any sidewalk dining area within a public walkway except pursuant to the issuance of an Encroachment Permit for Outdoor Seating approved by the Community Development Department and Public Works Department pursuant to these provisions.
2. Permits shall be issued only to the operator of a business on the abutting property (See **Figure 1** for Outdoor Seating locations). Other areas outside of the abutting property may be utilized for community events subject to the approval of the City Manager.
3. Permits are not transferrable to any entity or person and are valid only as to the original applicant.
4. Permits are temporary and nonpermanent in nature, and the permittee shall have neither a property interest in nor any entitlement to the granting or continuation of any such permit.
5. Permits may be terminated by the city with or without cause regardless of the nature and scope of financial or other interests in or on account of the permit, the permitted use, or the permittee.
6. Permits, sidewalk dining areas, and all obstructions in the public walkway shall conform to all other applicable federal, state and local requirements, except as otherwise provided herein.

## SECTION 6 – OUTDOOR SEATING PERMIT APPLICATION

A person desiring an outdoor seating permit shall file an Encroachment Permit application with the Public Works Department and pay the application fee. The application shall contain, at a minimum, the following information:

1. The name, business address, and telephone number of the applicant and contact person if different from the applicant.
2. If the applicant is not the owner of the abutting property, then the applicant shall obtain written approval of the application signed by the legal owner of abutting property, or by the owner's duly authorized agent. Any person signing the application as an agent shall provide the City with a written authorization for such purpose.
3. Plans satisfactory to the Community Development Department and Public Works Department that show in detail the dimensions of the sidewalk dining area, a description of its use, and the arrangement of the occupancy, including without limitation, all obstructions and activities in the public walkway, the number of seats and tables, a schedule of time of use, and all utility connections to be utilized in connection with such occupancy.
4. Any permittee desiring to change the permitted use in any manner including, without limitation, increasing the size of the sidewalk dining area, changing substantially the use or arrangement of the occupancy, or adding alcohol service to the sidewalk dining area shall file a new application pursuant to these provisions.

## SECTION 7 – OUTDOOR SEATING GUIDELINES

All permits issued pursuant to the terms of these provisions shall conform to all of the following requirements, and no permit shall be issued which does not conform to the provision contained herein:

### A. Maintenance & Operation Standards:

1. Outdoor Seating shall be allowed provided that a clear path of no less than five (5) feet is provided. The Community Development Department and Public Works Department may permit paths of travel of no less than four (4) feet in instances where safe access can be determined.
2. The outdoor seating area shall not extend beyond the boundaries of the adjoining property and shall not be located in a manner which interferes with the flow of pedestrian or other traffic flow.



3. Use, occupation and obstruction of the public walkway which is permitted under these provisions may be temporarily suspended without prior notice or hearing when, in the discretion of the Community Development Director, Public Works Director, Police Chief, Fire Chief, or City Manager any such use, occupation or obstruction may interfere with public safety efforts or programs, street improvement activities, construction activities, cleaning efforts, special events, or other similar activities, or with the health, welfare or safety of the citizens of the City.
4. The outdoor seating area and surrounding area shall be kept in a good state of repair and maintained in a clean, safe and sanitary condition.
5. There shall be no modification of the surface of the dining areas and public walkways.
6. The outdoor seating area shall be located in a manner which will not interfere with visibility, vehicular or pedestrian mobility, or access to City or public utility facilities. The determination of whether a sidewalk dining area or any part thereof interferes shall be made by the Community Development Department and Public Works Department at the time of application based on the characteristics of each proposed site.
7. The Community Development Department or Public Works Department may, in their sole discretion, place additional conditions upon the issuance of the permit in order to ensure the protection of the public right-of-way and the rights of all adjoining property owners and the health, safety and welfare of the public.
8. All objects used in conjunction with the outdoor seating area shall be removed from the public right-of-way during closed business hours, except as otherwise noted below and approved by the Community Development Department and Public Works Department:
  - a. Outside furniture including, but not limited to: tables, chairs, umbrellas, potted plants and heating equipment when located within an approved fenced enclosure area. Items within the enclosure area shall be secured to the satisfaction of the Community Development Department and Public Works Department.
  - b. Potted plants when not located within an approved enclosure area, but shall be stored adjacent to the abutting property.
9. Outdoor seating shall not block safe access to businesses, parking spaces, bike stalls, or other spaces required by local, state or federal building or safety codes.
10. Maintenance of sidewalk encroachments shall be the sole responsibility of the permit holder.
11. Any item permitted to be placed in the City right-of-way shall be maintained in a safe manner so as to not obstruct pedestrian access to public sidewalks, access ramps or doorways. Movable items, like chairs, shall be positioned to prevent obstruction of access routes at all times. The permitted item shall be, if moved by patrons, relocated to the appropriate location at all times.

12. All materials shall be well maintained without stains, rust, tears or discoloration. Materials that show signs of significant wear/age shall be replaced.
13. The types of materials placed on City sidewalks shall portray a well maintained and aesthetically appealing streetscape. The variety of uses that exist in the Downtown requires a cohesive design of allowed materials, colors, and variation of items permitted in the Streetscape Area.

#### **B. Outdoor Furniture:**

1. The maximum height of any obstruction, except table umbrellas, potted plants and heaters, shall be four (4) feet, and all such obstructions shall be entirely portable, except for permanent fencing.



2. Umbrellas shall be installed and maintained so as to provide pedestrian clearance by maintaining seven (7) feet of clearance from the sidewalk to the lowest edge of the umbrella. Umbrellas shall not exceed a maximum height of nine (9) feet from the base to the top portion of the pole.

3. The outdoor seating area may be defined by placement of fencing (i.e. wrought iron or equivalent) or other suitable dividers as required or approved by the Community Development Department and Public Works Department. All fencing shall be permanently attached in accordance with Public Works specifications.

4. All fencing, dividers and obstructions shall also be reviewed and approved by the Community Development Department and Public Works Department in order to ensure that they are in keeping with the aesthetic and architectural character of the area and with all approved design guidelines contained herein.



5. There shall be no covering over any part of the sidewalk dining area except for individual table umbrellas with properly-weighted bases and awnings attached to the abutting property, approved pursuant to all City requirements.
6. Permanent and/or Portable outdoor heating devices are permitted. Permanent and/or Portable heating devices shall be reviewed by the Building Official and Fire Department for safety and the Community Development Department for aesthetics. A separate permit shall be obtained from the Building Division prior to installation.

7. All items located on the public sidewalk shall be constructed of durable materials appropriate for use in the public right-of-way. Folding chairs, light weight materials, deteriorated, U.V. damaged, splintered or other similar furniture will not be approved or placed in the City's right-of-way. Sealed or painted metal or wood tables are recommended.
8. Street furniture shall not contain signs, advertising, or logos.
9. Sales racks shall not be permitted within the City right-of-way.
10. Outdoor displays shall be limited to a single freestanding menu board limited to two foot six inches (2'6") in width and four (4) feet in height subject to design approval by the Community Development Department.

#### **C. Colors & Materials:**

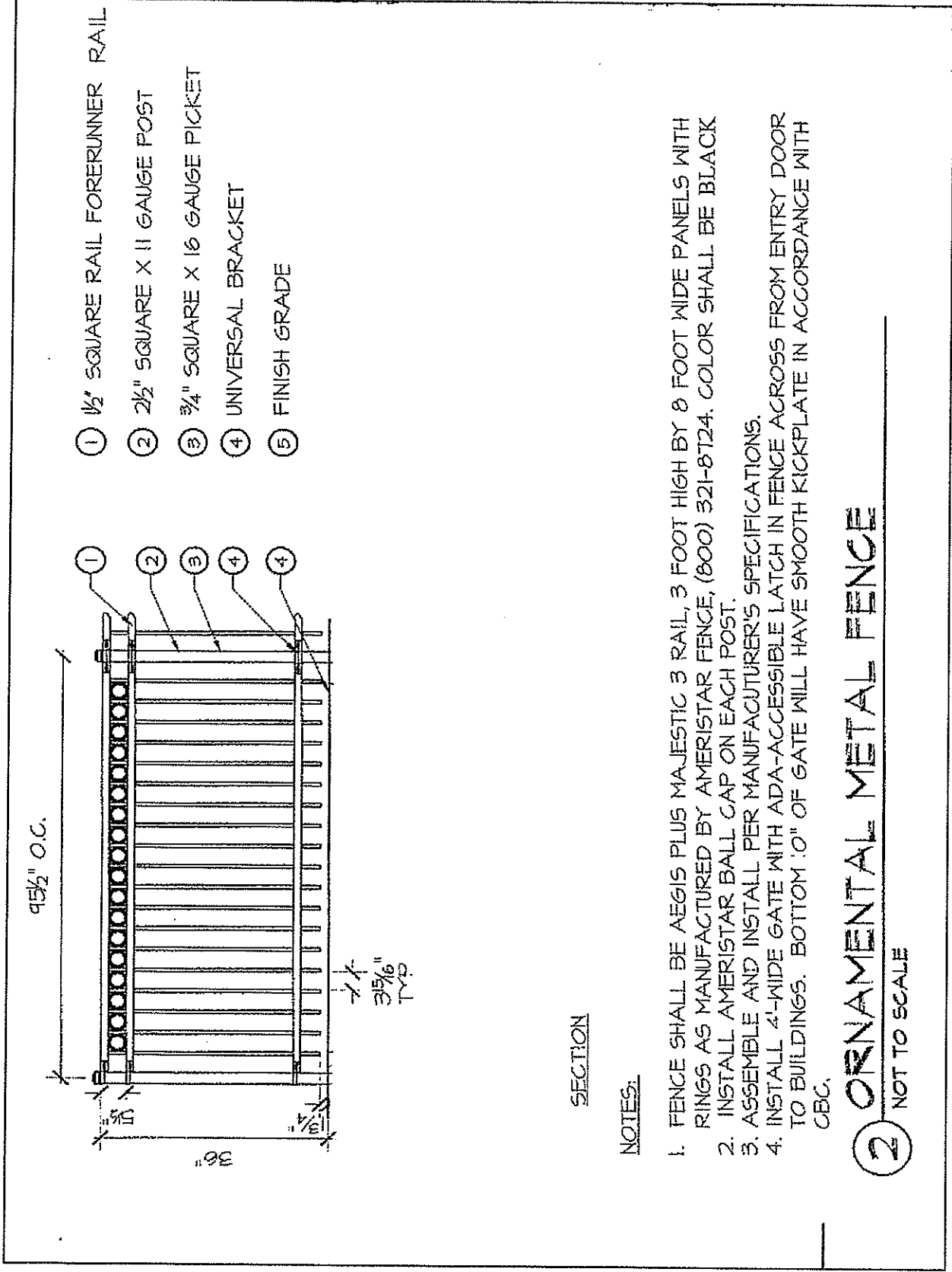
1. Permitted outdoor seating and related facilities shall be complimentary in material, color and design to the buildings they serve and are adjacent to.
2. Table cloths, umbrellas and similar material uses as part of an outdoor seating permit, shall be clearly described in the project application (material samples may be required). All materials shall be painted, stained, etc., in a solid color; stripes and patterns are prohibited.
3. All fencing, whether required or not, shall be constructed of wrought iron or tubular steel as shown in **Figure 2**. The color of fencing shall be black.

#### **D. Planters & Landscaping:**

1. The use of pots and other planters should be kept to a minimum and used against buildings to accent openings. Planters shall not be used to define seating areas or otherwise cordon off public sidewalks for private use.
2. Planters shall be of a variety and maintained so as to not drain onto the sidewalk or street.
3. Plant material shall be of high quality and shall be maintained in a viable condition at all times.
4. Debris or litter caused by planters or nearby landscaping shall be maintained or cleaned by the responsible business or property owner. Debris, stains or litter shall be cleaned or removed by the responsible business or property owner.
5. Planters and landscaping shall be trimmed to maintain the required five (5) foot clearance.







## **SECTION 8 – NO SERVING OF ALCOHOL WITHOUT LICENSE.**

No alcohol shall be served in an outdoor seating area until an expansion of the on-sale alcoholic beverage license to the outdoor seating area has been obtained by the business owner pursuant to the California Business and Professions Code.

Additional requirements may be required by the City of Auburn.

## **SECTION 9 – INDEMNIFICATION**

As a condition of issuance of an Encroachment Permit, the permittee, and any person acting under or pursuant to the permit, shall agree to indemnify and defend the City, its employees, agents and officials should, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, expense, attorneys fees, litigation expenses, court costs or any other costs arising out of or in any way related to the issuance of the [permit], or the activities conducted pursuant to the [permit]. Accordingly, to the fullest extent permitted by law, [Applicant] shall defend, indemnify and hold harmless City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorneys fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, the issuance of the [permit], or the activities conducted pursuant to the [permit]. Applicant shall pay such obligations as they are incurred by City, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the City reasonably determines necessary to protect the City from exposure to fees, costs or liability with respect to such claim or lawsuit.

## **SECTION 10 – LIABILITY INSURANCE**

As a condition for issuance of the permit, the permittee shall file with the City a certificate of liability insurance evidencing coverage for bodily injury and property damage liability in the amount and form approved by the City.

## **SECTION 11 – APPEAL**

Any action taken by the Community Development Department and Public Works Department under these provisions may be appealed to the Historic Design Review Commission whose decision may be appealed to the City Council. The applicant or any person may appeal the determination within ten (10) calendar days after such determination has been made in writing.